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SENATE BILL 834

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Joseph J. Carraro

AN ACT

RELATING TO MILITARY AFFAIRS; CHANGING THE NAME OF THE NEW  
MEXICO STATE DEFENSE FORCE TO THE NEW MEXICO STATE GUARD.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 20-1-4 NMSA 1978 (being Laws 1987,  
Chapter 318, Section 4) is amended to read:

"20-1-4. GOVERNOR TO BE COMMANDER-IN-CHIEF-- ENFORCEMENT  
OF NEW MEXICO MILITARY CODE. --

A. The governor shall be the commander-in-chief of  
the military forces, except so much thereof as may be in the  
actual service of the United States, and may employ the  
military forces for the defense or relief of the state, the  
enforcement of its law and the protection of life and property  
therein.

B. Whenever the governor or acting governor is

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1 unable to personally perform the duties of commander-in-chief  
2 or whenever the governor so directs, the adjutant general or,  
3 in [~~his~~] the adjutant general's absence, the senior line  
4 officer of the national guard present for duty with the troops  
5 shall command the military forces.

6 C. The governor may appoint a staff consisting of  
7 the adjutant general and aides-de-camp of field grade or  
8 higher who shall be detailed from the national guard or the  
9 state [~~defense force~~] guard. The governor may designate  
10 honorarily other persons as colonels aide-de-camp.

11 D. The governor may, by executive orders,  
12 proclamations or regulations not inconsistent with law,  
13 enforce all the provisions of the New Mexico Military Code."

14 Section 2. Section 20-1-6 NMSA 1978 (being Laws 1987,  
15 Chapter 318, Section 6, as amended) is amended to read:

16 "20-1-6. PAYMENTS BY STATE TREASURER--CERTIFICATES OF  
17 INDEBTEDNESS.--

18 A. All compensation of personnel and all the  
19 necessary expenses incurred in quartering, housing, caring  
20 for, subsisting, protecting, equipping, warning for duty and  
21 transporting such officers and members and their equipment,  
22 including the purchase or lease of any articles of material,  
23 equipment or supplies reasonably required, designed or needed  
24 to accomplish the purpose or results desired by the governor  
25 or specified in [~~his~~] the governor's call for such troops into

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1 service of the state, shall be paid by the state. The state  
2 treasurer, upon presentation to [~~him~~] the state treasurer of  
3 vouchers and payrolls for such compensation, expenses,  
4 supplies and materials, certified by the officers commanding  
5 such forces and approved by the adjutant general, shall pay  
6 the vouchers and payrolls out of any money available in the  
7 state treasury not otherwise appropriated, provided that the  
8 vouchers and payrolls for such service, supplies and materials  
9 do not exceed two hundred fifty thousand dollars (\$250,000) in  
10 any one fiscal year.

11 B. If there is no money available in the state  
12 treasury [~~which~~] that is not otherwise appropriated or if the  
13 vouchers and payrolls for such service, material and supplies  
14 approach the amount of two hundred fifty thousand dollars  
15 (\$250,000) in any one fiscal year, the state treasurer shall  
16 certify such facts to the governor, who shall inquire into and  
17 make an estimate of the total probable cost necessary to be  
18 incurred for all purposes in connection with or to accomplish  
19 the purpose for which such troops were called into active  
20 service. If [~~he~~] the governor deems it necessary and prudent  
21 in order to provide for the public defense that such expenses  
22 be incurred and that it is necessary to create an indebtedness  
23 for the purpose of paying the expenses, the governor shall by  
24 proclamation declare an emergency to exist requiring the  
25 creation of an indebtedness under Article 9, Section 7 of the

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1 constitution of New Mexico in order to suppress insurrection  
2 or to provide for the public defense. The governor shall  
3 order the issuance of certificates of indebtedness in such  
4 amount as ~~he~~ the governor deems required or necessary to  
5 provide funds for the payment of ~~any~~ expenses and costs  
6 incident to or connected with the emergency.

7 C. The certificates of indebtedness shall be  
8 approved as to form by the attorney general. They shall be  
9 dated the day of their issuance and the state board of finance  
10 shall by proper resolutions prescribe the denominations of the  
11 certificates, the maturity dates thereof, the rate of interest  
12 they shall bear payable semiannually, the time and place of  
13 payment of both principal and interest and the amount of the  
14 certificates that shall be issued from time to time. The  
15 certificates shall be signed by the secretary of the state  
16 board of finance and the state treasurer and the coupons  
17 attached thereto shall have the engraved lithographed  
18 facsimile of the signature of the state treasurer thereon;  
19 provided, however, that certificates purchased by the state  
20 treasurer may be issued without coupons. The certificates  
21 shall be sold by the state board of finance from time to time  
22 in such amounts as it deems advisable, at not less than par  
23 and accrued interest to date of delivery, after advertisement  
24 for a period of two weeks immediately prior to the sale in one  
25 daily newspaper in the state and in some financial journal in

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1 the city and state of New York; provided, however, that the  
2 state treasurer may purchase the certificates as an investment  
3 of any funds in [~~his~~] the state treasurer's hands available  
4 for investment and in the event of any such purchase by [~~him~~]  
5 the state treasurer, no advertisement shall be required. The  
6 proceeds of certificates so sold shall be by the state  
7 treasurer covered into a fund known as the "adjutant general  
8 emergency public defense fund" and shall be expended and  
9 disbursed only in the manner and for the purposes specified  
10 and provided for in Chapter 20, Article 1 NMSA 1978.

11 D. A fund to be known as the "adjutant general  
12 emergency public defense certificates fund" to provide for the  
13 payment of interest and principal on the foregoing  
14 certificates is established and, beginning with the tax levy  
15 for the year following the issuance of the certificates, a tax  
16 shall be levied annually in the same manner as other ad  
17 valorem taxes are levied on all taxable property in the state,  
18 not to exceed one-half mill on the dollar of valuation,  
19 sufficient to produce the amount required to pay interest on  
20 the certificates and the principal thereof at maturity, for  
21 each year prior to the maturity of the certificates, which  
22 taxes when collected shall be credited to the adjutant general  
23 emergency public defense certificates fund. The state auditor  
24 shall each year prior to August 1 certify to the property tax  
25 division of the taxation and revenue department the amount

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1 necessary to meet all payments of principal and interest due  
2 on the certificates during the year ending June 30 following  
3 the date of the certificates.

4 E. On or before the twentieth legislative day of the  
5 next legislative session following the expenditures of the  
6 sums provided for in this section, the governor shall file a  
7 written report with the presiding officer of each house of the  
8 legislature setting forth the purpose and the amounts of money  
9 expended as provided in this section.

10 F. The provisions of this section may be used for  
11 the operation of the national guard or the state [~~defense~~  
12 ~~force~~] guard when on militia duty. "

13 Section 3. Section 20-2-1 NMSA 1978 (being Laws 1987,  
14 Chapter 318, Section 8) is amended to read:

15 "20-2-1. DEFINITIONS AND PRINCIPLES. --

16 A. "Militia" means all the military forces of this  
17 state, organized and unorganized, whether active or inactive;  
18 but excludes the regularly organized police forces of the  
19 state or its political subdivisions and excludes the civil air  
20 patrol division.

21 B. "National guard" means the New Mexico army  
22 national guard and the New Mexico air national guard. The  
23 national guard is federally recognized and has a dual state  
24 and federal character and mission. When used in Chapter 20  
25 NMSA 1978, "national guard" shall refer to the national guard

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1 of New Mexico unless otherwise stated.

2 C. "New Mexico state defense force" means that part  
3 of the militia of the state [~~which~~] that is not federally  
4 recognized. It is exclusively a state entity. Its standing  
5 cadre is a component of the organized militia; its ranks are  
6 filled upon order of the governor from the unorganized  
7 militia. When used in Chapter 20 NMSA 1978, "state defense  
8 force" shall refer to the New Mexico state [~~defense force~~]  
9 guard. "

10 Section 4. Section 20-2-2 NMSA 1978 (being Laws 1987,  
11 Chapter 318, Section 9) is amended to read:

12 "20-2-2. MILITIA COMPOSITION.--The militia is composed  
13 of the organized and the unorganized militia.

14 A. The organized militia is the national guard and  
15 the standing cadre of the state [~~defense force~~] guard and such  
16 parts of the unorganized militia when and as may be activated,  
17 enrolled or enlisted into the national guard or into the state  
18 [~~defense force~~] guard.

19 B. The unorganized militia [~~is comprised of~~]  
20 comprises all able-bodied [~~male citizens~~] residents of the  
21 state and all other able-bodied [~~males~~] residents who have or  
22 shall have declared their intentions to become citizens of the  
23 United States and are residents of the state who are not less  
24 than eighteen or more than forty-five years of age, but who  
25 shall not be more than sixty-four years of age if they shall

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1 have earlier served in or retired from the national guard;  
2 subject to the following exceptions:

3 (1) persons exempted by the laws of the United  
4 States from federal military service;

5 (2) persons who are engaged in civilian  
6 occupations [~~which~~] that are deemed by the governor to be of  
7 greater public service or necessity than would be their  
8 service in the militia if called into active service of the  
9 state;

10 (3) persons who have received dismissal, a  
11 dishonorable discharge, a bad conduct discharge, an  
12 undesirable discharge or a discharge under other than  
13 honorable conditions from any military component; and

14 (4) persons in active federal military service  
15 or retired military members subject to federal recall to  
16 active military service.

17 C. The adjutant general may prescribe plans by  
18 regulation for the orderly activating and detailing of the  
19 unorganized militia and its members, to include mission  
20 analysis and personnel classification. Enrollment or  
21 enlistment of members of the unorganized militia may be into  
22 the national guard, subject to federal criteria, or into the  
23 state [~~defense force~~] guard, as determined by the governor.

24 D. The governor may authorize the voluntary  
25 appointment or voluntary enlistment of female citizens of the

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1 state into the noncombat branches and services of the  
2 organized militia and while so serving they shall have the  
3 same status as male members. "

4 Section 5. Section 20-2-6 NMSA 1978 (being Laws 1987,  
5 Chapter 318, Section 13) is amended to read:

6 "20-2-6. GOVERNOR--CALL FOR FEDERAL OR STATE SERVICE--  
7 POWERS.--

8 A. When the national guard or a part thereof is  
9 called or ordered into active federal service under the  
10 constitution and laws of the United States and the numbers or  
11 composition of the national guard forces are insufficient to  
12 meet such call or order, the governor may order out and cause  
13 through the adjutant general to be enrolled into the organized  
14 militia such persons as may be required and expected to  
15 reasonably meet the federal call or order.

16 B. The governor may order out the organized militia  
17 when:

18 (1) the national guard or any significant  
19 portion thereof is called or ordered into active federal  
20 service and the remaining national guard forces are  
21 insufficient for the needs of the state; or

22 (2) the total strength or composition of the  
23 national guard within the state is deemed by the governor to  
24 be insufficient to meet a major disaster, experienced or  
25 anticipated. The governor is authorized to call into active

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1 state service the state [~~defense force~~] guard or any portion  
2 thereof as may be necessary for the protection and well being  
3 of the state. If the numbers or composition of the state  
4 [~~defense force be~~] guard is inadequate to meet the need, the  
5 governor [~~can~~] may call out and cause through the adjutant  
6 general to be enrolled from the unorganized militia such  
7 persons as are required to bring the organized militia up to  
8 strength. "

9 Section 6. Section 20-2-8 NMSA 1978 (being Laws 1987,  
10 Chapter 318, Section 15) is amended to read:

11 "20-2-8. HONORARY PROMOTION UPON RETIREMENT. -- Members of  
12 the organized militia may be promoted by the governor to the  
13 next higher grade [~~on the occasion of~~] upon their retirement  
14 from service under the following conditions:

15 A. that the member has honorably served either a  
16 total of thirty years in the federal military or organized  
17 militia combined or a minimum of twenty years in the organized  
18 militia, provided that no period of less than ten years in the  
19 state [~~defense force~~] guard shall be credited toward either of  
20 these requirements; and

21 B. that the honorary promotion be requested by the  
22 member and be favorably recommended by the adjutant general. "

23 Section 7. Section 20-3-2 NMSA 1978 (being Laws 1987,  
24 Chapter 318, Section 17) is amended to read:

25 "20-3-2. DEPARTMENT STRUCTURE-- AUTHORITY OF ADJUTANT

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1 GENERAL. --

2 A. The department of military affairs is composed  
3 of:

4 (1) the office of the adjutant general;

5 (2) three subordinate military divisions:

6 (a) the army national guard division;

7 (b) the air national guard division; and

8 (c) the state [~~defense force~~] guard  
9 division;

10 (3) one subordinate civil division, the civil  
11 air patrol division; and

12 (4) four subordinate support agencies:

13 (a) the selective service office;

14 (b) the state armory board;

15 (c) the state programs office; and

16 (d) the United States property and fiscal  
17 office and such other agencies, administrative staffs and  
18 clerical staffs necessary for departmental operation [~~which~~]  
19 that the adjutant general may by regulation prescribe.

20 B. The adjutant general is the military chief of  
21 staff to the governor and is the head of the department of  
22 military affairs.

23 C. The adjutant general shall prescribe policies,  
24 rules and procedures for the orderly functioning of the  
25 department of military affairs, which may include subordinate

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1 organizational structures and lines of authority.

2 D. The adjutant general may employ such  
3 administrative, technical, clerical and other personnel as  
4 [he] the adjutant general deems necessary and may fix the  
5 compensation of exempt personnel subject to the concurrence of  
6 the department of finance and administration.

7 E. The adjutant general may make expenditures from  
8 appropriations or from other funds available to [him] the  
9 adjutant general for all purposes within Chapter 20 NMSA 1978.

10 F. The adjutant general is authorized to accept  
11 through the United States property and fiscal officer such  
12 equipment, supplies, arms, facilities and personnel support  
13 funding as may be authorized and appropriated by federal law.

14 G. The adjutant general shall be furnished suitable  
15 buildings, facilities, supplies and equipment for conducting  
16 the business of the department of military affairs to include  
17 the proper storage, repair and issuance of military property.

18 H. The adjutant general may appoint as assistant  
19 adjutants general one officer from each of the three military  
20 divisions in the department of military affairs. The officers  
21 [so] appointed shall hold the rank of brigadier general during  
22 such appointment. The qualifications of each person so  
23 appointed shall meet the specific standards required for such  
24 appointment within Chapter 20 NMSA 1978 and any applicable  
25 federal standards or [requirements] requirements. Once

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1 appointed, the assistant adjutants general shall serve at the  
2 pleasure of the adjutant general; their performance will be  
3 reviewed annually, in January, by the adjutant general; and if  
4 relieved, an assistant adjutant general shall revert to the  
5 rank previously held or to such higher rank to which promoted  
6 and federally recognized while serving as assistant adjutant  
7 general. The adjutant general may designate one federally  
8 recognized assistant adjutant general as deputy adjutant  
9 general and another federally recognized assistant adjutant  
10 general as vice-deputy adjutant general. The deputy adjutant  
11 general shall serve on full-time active status for the state.  
12 In the incapacity or absence from the state of the adjutant  
13 general, the deputy adjutant general shall act in [~~his~~] the  
14 adjutant general's stead. In the incapacity or absence from  
15 the state of both the adjutant general and the deputy adjutant  
16 general, the governor may call the vice-deputy adjutant  
17 general to active service for the state. The assistant  
18 adjutants general shall perform all duties that may be  
19 required of them by the adjutant general. The adjutant  
20 general may delegate in writing to any of the assistant  
21 adjutants general such authorities and responsibilities as  
22 [~~he~~] the adjutant general deems appropriate, consistent with  
23 the constitutions, laws and regulations of the state and of  
24 the United States. Assistant adjutants general, when on  
25 active status for the state, shall receive the same pay and

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1 allowances as [~~is~~] are prescribed by federal law and  
2 regulations for members of the active military in the grade of  
3 brigadier general, unless a different rate of pay and  
4 allowances [~~are~~] is specified in a general appropriation act  
5 of the New Mexico legislature.

6 I. The adjutant general shall appoint individuals to  
7 serve as director of the one civil division and as head of  
8 each of the four support agencies, except as stated in Section  
9 20-9-1 NMSA 1978. The qualifications of each person so  
10 appointed shall meet the specific standards required for such  
11 appointment within Chapter 20 NMSA 1978 and any applicable  
12 federal standards or requirements.

13 J. There shall be allowed to the adjutant general a  
14 contingent and entertainment fund of [~~twenty-five hundred~~] two  
15 thousand five hundred dollars (\$2,500) annually, plus such  
16 additional appropriations for carrying out the functions of  
17 [~~his~~] the office as the legislature shall deem proper."

18 Section 8. Section 20-4-12 NMSA 1978 (being Laws 1987,  
19 Chapter 318, Section 29) is amended to read:

20 "20-4-12. MILITARY LAST WILL AND TESTAMENT FOR NATIONAL  
21 GUARD AND RESERVES. --

22 A. Notwithstanding any other provision of law to the  
23 contrary, any member of the national guard or reserves may  
24 execute a military last will and testament (military will)  
25 according to the provisions of this section. Such will may be

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1 executed within or without the state and shall be given the  
2 same force and effect as any will properly executed pursuant  
3 to Chapter 45 NMSA 1978, the provisions of which shall govern  
4 the rules of construction of a military will and the  
5 administration of the testator's estate.

6 B. Mindful of the mobilization readiness required of  
7 members of the national guard and reserves, the adjutant  
8 general may prescribe regulations and forms for a military  
9 will. These regulations and forms shall be designed to  
10 achieve basic [~~testamentary~~] testamentary disposition of the  
11 member's property in contemplation of rapid troop mobilization  
12 and of the hazards of armed conflict. They shall be designed  
13 for preparation by unit administrative personnel according to  
14 the desires of the testator. No liability or cause of action  
15 shall attach to the erroneous act or omission of any person  
16 assisting a testator in the preparation or execution of a  
17 military will.

18 C. The scope of a military will shall be limited to  
19 the following dispositions and provisions:

20 (1) disposition of the testator's entire estate  
21 to the testator's spouse or in the event the testator is  
22 predeceased by the spouse then to the testator's children in  
23 equal shares and to their descendants by right of  
24 representation;

25 (2) if the testator is not survived by a

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1 spouse, children or lineal descendents, then disposition of  
2 the testator's entire estate shall be according to the laws of  
3 intestate succession;

4 (3) a guardian for minor children may be  
5 nominated by the testator in the event that any minor child's  
6 other natural parent is or shall become unwilling or unable to  
7 serve as the child's guardian;

8 (4) a personal representative may be nominated  
9 by the testator in the event that the testator's surviving  
10 spouse is or shall become unwilling or unable to so serve; and

11 (5) trust provisions are prohibited as beyond  
12 the scope of a military will.

13 D. A military will shall be executed, witnessed and  
14 attested to before two persons, one of whom ~~[must]~~ shall be a  
15 commissioned, warrant or noncommissioned officer of the  
16 national guard or state ~~[defense force]~~ guard. A military  
17 will so executed, witnessed and attested shall be deemed a  
18 self-proving will.

19 E. A military will may be executed only by a member  
20 of the national guard or reserves and not by a member's  
21 civilian dependents.

22 F. A military will shall, during the testator's  
23 membership in the national guard or reserves, be maintained as  
24 a permanent record in the member's military personnel records  
25 jacket. In the event of the member's death, the will shall

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1 promptly be delivered by military authorities to the  
2 appropriate court of competent jurisdiction.

3 G. Upon discharge, separation or retirement of the  
4 member from the national guard or reserves, a military will  
5 shall become ~~[null and]~~ void. "

6 Section 9. Section 20-5-1 NMSA 1978 (being Laws 1987,  
7 Chapter 318, Section 32) is amended to read:

8 "20-5-1. NEW MEXICO STATE ~~[DEFENSE FORCE]~~ GUARD  
9 ESTABLISHED-- NOT IN FEDERAL SERVICE-- DEFINITIONS. --

10 A. The "New Mexico state ~~[defense force]~~ guard" is  
11 established as an element of the militia in the department of  
12 military affairs. ~~[The members and organizations of the~~  
13 ~~former New Mexico state guard are transferred to the New~~  
14 ~~Mexico state defense force on the effective date of this act.]~~

15 B. Nothing in Chapter 20 NMSA 1978 shall be  
16 construed as authorizing the New Mexico state ~~[defense force]~~  
17 guard or any part thereof to be called, ordered or in any  
18 manner drafted by federal authorities into the military  
19 service of the United States, but no person by reason of ~~[his]~~  
20 the person's enlistment or appointment in the state ~~[defense~~  
21 ~~force]~~ guard shall be exempted from military service under any  
22 law of the United States.

23 C. The following definitions apply to the duty  
24 statuses under which members of the state ~~[defense force]~~  
25 guard serve:

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1                   (1) "militia duty" means the performance of  
2 actual military service for the state in time of need when  
3 called by the governor or adjutant general following  
4 mobilization of the national guard. It may be performed by  
5 the standing cadre of the state [~~defense force~~] guard at any  
6 time so ordered following mobilization of the national guard.  
7 It may be performed by the unorganized militia following its  
8 call by the governor pursuant to Subsection B of Section 20-2-  
9 6 NMSA 1978 [~~of this chapter~~], in which case it shall include  
10 the post-call training of the New Mexico state [~~defense force~~]  
11 guard pursuant [~~thereto~~] to that section; and

12                   (2) "cadre duty" means the normal service and  
13 training performed by the standing cadre of the state [~~defense~~  
14 ~~force~~] guard in anticipation and support of militia duty,  
15 including organization, administration and other pre-call  
16 matters."

17                   Section 10. Section 20-5-3 NMSA 1978 (being Laws 1987,  
18 Chapter 318, Section 34) is amended to read:

19                   "20-5-3. COMPOSITION--ENLISTMENT--APPOINTMENT.--

20                   A. The state [~~defense force~~] guard shall consist of  
21 persons between the ages of eighteen and sixty-four years  
22 voluntarily appointed or voluntarily enlisted therein and such  
23 additional members of the unorganized militia as therein may  
24 be appointed, enlisted, enrolled or inducted as provided by  
25 law. Volunteer members may be retained beyond age sixty-four

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1 with their consent by direction of the adjutant general.

2 B. The officers of the state [~~defense force~~] guard  
3 shall be appointed by the governor and serve at [~~his~~] the  
4 governor's pleasure. They shall be chosen from the public and  
5 private leadership bases within local communities so as to  
6 best enable the community to efficiently muster and lead its  
7 people and protect its assets and well being. "

8 Section 11. Section 20-5-4 NMSA 1978 (being Laws 1987,  
9 Chapter 318, Section 35) is amended to read:

10 "20-5-4. ADMINISTRATION OF OATHS. -- All commissioned  
11 officers of the national guard and of the state [~~defense~~  
12 ~~force~~] guard, and such other persons or officials as the  
13 adjutant general shall prescribe, are [~~hereby~~] authorized and  
14 empowered to administer oaths and affirmations in all matters  
15 pertaining to and concerning the state [~~defense force~~] guard  
16 and to administer oaths and affirmations in the enlistment of  
17 soldiers [~~therefor~~] for the state guard. "

18 Section 12. Section 20-5-6 NMSA 1978 (being Laws 1987,  
19 Chapter 318, Section 37) is amended to read:

20 "20-5-6. UNIFORM - RANK PRECEDENCE AND COMMAND. --

21 A. The state [~~defense force~~] guard shall be  
22 uniformed. The governor shall by regulation prescribe the  
23 uniform and insignia of the [~~New Mexico~~] state [~~defense force~~]  
24 guard, which uniform and insignia shall include distinctive  
25 devices identifying it as the uniform of the state [~~defense~~

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1 ~~force]~~ guard and distinguishing it from the national guard.  
2 When in uniform, members of the state [~~defense-force]~~ guard  
3 will reasonably conform to the dress and appearance standards  
4 of the national guard. The wearing of permanent military  
5 decorations earlier awarded is authorized.

6 B. The grade structure of the state [~~defense-force]~~  
7 guard shall to the extent practicable be the same as that  
8 prescribed for the army national guard.

9 C. The senior line officer without distinction as to  
10 component present in any organization or formation of the  
11 state [~~defense-force]~~ guard shall command, unless the adjutant  
12 general shall designate otherwise. "

13 Section 13. Section 20-5-7 NMSA 1978 (being Laws 1987,  
14 Chapter 318, Section 38) is amended to read:

15 "20-5-7. DISCIPLINE. --

16 A. The discipline of the state [~~defense-force]~~ guard  
17 shall, to the extent practicable, conform to that of the army  
18 national guard.

19 B. When performing militia duty, members of the  
20 state [~~defense-force]~~ guard are subject to the Code of  
21 Military Justice, Chapter 20, Article 12 NMSA 1978.

22 C. Standards of conduct applicable to the army  
23 national guard are applicable to members of the state [~~defense~~  
24 ~~force]~~ guard when performing militia duty or cadre duty. "

25 Section 14. Section 20-5-8 NMSA 1978 (being Laws 1987,

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1 Chapter 318, Section 39) is amended to read:

2 "20-5-8. DISCHARGE--DISMISSAL. --

3 A. Upon expiration of the term of service for which  
4 appointed or enlisted, a member of the state [~~defense force~~]  
5 guard shall be entitled to a discharge; provided that no  
6 member shall be discharged by reason of expiration of [~~his~~]  
7 the member's term of service while in the active service of  
8 the state.

9 B. A member of the state [~~defense force~~] guard may  
10 be dismissed or discharged prior to the expiration of [~~his~~]  
11 the member's term of service by sentence of a court-martial or  
12 for misconduct, inefficiency, unsatisfactory participation,  
13 personal hardship or for such other cause as the adjutant  
14 general finds and the governor approves. Discharge  
15 proceedings shall, as nearly as practicable, follow the laws,  
16 rules and procedures prescribed for the army national guard.

17 C. Discharge certificates shall reflect the  
18 character of the member's service. They shall conform as  
19 closely as practicable to discharge certificates of the army  
20 national guard. "

21 Section 15. Section 20-5-9 NMSA 1978 (being Laws 1987,  
22 Chapter 318, Section 40) is amended to read:

23 "20-5-9. ARMS AND EQUIPMENT--FACILITIES. --

24 A. The state [~~defense force~~] guard, to the extent  
25 practicable, shall be equipped as needed for training and for

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1 actual state service.

2 B. To the extent available and permitted by federal  
3 law, armories and other facilities of the national guard and  
4 other state facilities may be utilized for the storage and  
5 maintenance of arms, equipment and supplies of the state  
6 [~~defense force~~] guard and for the assembly, drill and  
7 instruction of its members. "

8 Section 16. Section 20-5-10 NMSA 1978 (being Laws 1987,  
9 Chapter 318, Section 41, as amended) is amended to read:

10 "20-5-10. TRAINING. --

11 A. The adjutant general shall promulgate regulations  
12 governing the training of the state [~~defense force~~] guard,  
13 including its standing cadre.

14 B. To the extent permitted by law, officers and  
15 members of the national guard may be detailed to train and  
16 instruct the standing cadre of the state [~~defense force~~]  
17 guard. Members of its standing cadre may attend service  
18 schools and other courses of training or instruction conducted  
19 by state or federal agencies in cadre duty status. Such  
20 training shall be paid for only to the extent allowed in  
21 Subsection B of Section 20-5-9 NMSA 1978.

22 Section 17. Section 20-5-11 NMSA 1978 (being Laws 1987,  
23 Chapter 318, Section 42) is amended to read:

24 "20-5-11. MEMBERS NOT LIABLE FOR ACTS IN PERFORMANCE OF  
25 DUTY. -- Members of the state [~~defense force~~] guard shall not

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1 incur personal civil liability for acts performed in the line  
2 of militia duty or cadre duty or in travel directly to or from  
3 said duty, and the state shall defend and indemnify against  
4 any such claims as are brought, and the state shall be  
5 substituted as a party defendant for the member. "

6 Section 18. Section 20-5-13 NMSA 1978 (being Laws 1987,  
7 Chapter 318, Section 44) is amended to read:

8 "20-5-13. DISCRIMINATION PROHIBITED--PENALTY.--No  
9 employer or agent thereof shall refuse to hire, penalize or  
10 discharge from employment any person because of membership in  
11 the state [~~defense force~~] guard or prevent the member from  
12 performing any duty [~~he~~] the member may be called upon to  
13 perform by proper authority. Willful violation of this  
14 section shall be a misdemeanor. "

15 Section 19. Section 20-5-14 NMSA 1978 (being Laws 1987,  
16 Chapter 318, Section 45) is amended to read:

17 "20-5-14. MILITARY LEAVE.--All state, county, municipal,  
18 school district and other public employees who are members of  
19 the state [~~defense force~~] guard shall be given not to exceed  
20 fifteen working days military leave with pay per federal  
21 fiscal year when they are ordered by the adjutant general to  
22 cadre duty with such organized units, such leave to be in  
23 addition to other leave or vacation time with pay to which  
24 such employees are otherwise entitled. The governor may grant  
25 any member of the state [~~defense force~~] guard who is a state

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1 employee additional military leave with pay, in excess of that  
2 allowed above, not to exceed fifteen working days per year for  
3 periods of cadre duty for training when [~~he~~] the governor  
4 deems that such training will benefit the state by enabling  
5 that employee to better perform the duties required in [~~his~~]  
6 the employee's state occupation. "

7 Section 20. Section 20-5-15 NMSA 1978 (being Laws 1987,  
8 Chapter 318, Section 46) is amended to read:

9 "20-5-15. EXEMPTIONS--PROCESS--UNIFORMS AND EQUIPMENT.--

10 A. Members of the state [~~defense force~~] guard shall  
11 not be subject to misdemeanor arrest, jury duty or to other  
12 civil process while going to, remaining at or returning from  
13 any place at which the member is required to perform militia  
14 duty. This exemption shall not preclude the proper issuance  
15 of traffic citations or temporary delays which do not  
16 materially impede the timely performance of militia duty or  
17 arrest for driving while intoxicated.

18 B. Uniforms, arms and equipment required by law or  
19 regulations to be owned by members of the state [~~defense~~  
20 ~~force~~] guard and all uniforms, equipment or other property of  
21 the state or the United States issued to members of the state  
22 [~~defense force~~] guard shall be exempt from all suits,  
23 distresses, executions or sales for debt or payment of taxes. "

24 Section 21. Section 20-5-16 NMSA 1978 (being Laws 2003,  
25 Chapter 111, Section 1) is amended to read:

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1 "20-5-16. STATE [~~DEFENSE FORCE~~] GUARD- - WORKERS'  
2 COMPENSATION. --

3 A. When a member of the state [~~defense force~~] guard  
4 is on state-ordered militia duty, [~~he~~] the member is a worker  
5 under the Workers' Compensation Act and the department of  
6 military affairs is [~~his~~] the member's employer.

7 B. The average weekly wage of a member of the state  
8 defense force shall be computed at the pay earned in [~~his~~] the  
9 member's civilian capacity. Disability benefits to a member  
10 of the state [~~defense force~~] guard shall be limited to medical  
11 benefits and two-thirds of [~~his~~] the member's civilian pay if  
12 [~~he~~] the member is unable to work.

13 C. A member of the state [~~defense force~~] guard shall  
14 not be considered a worker under the Workers' Compensation Act  
15 when performing cadre duty.

16 D. As used in this section:

17 (1) "cadre duty" means the normal service and  
18 training of the standing cadre of the state [~~defense force~~]  
19 guard in anticipation and support of militia duty, including  
20 organization, administration and other pre-call matters; and

21 (2) "militia duty" means the performance of  
22 actual military service for the state in time of need when  
23 called by the governor or adjutant general following  
24 mobilization of the national guard. If performed by the  
25 unorganized militia following its call by the governor

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1 pursuant to Section 20-2-6 NMSA 1978, it shall include the  
2 post-call training of the New Mexico state [~~defense force~~]  
3 guard as required by that call."

4 Section 22. Section 20-8-2 NMSA 1978 (being Laws 1987,  
5 Chapter 318, Section 53, as amended) is amended to read:

6 "20-8-2. DEFINITIONS. --

7 A. "Armory" means any building, training area,  
8 warehouse, vehicle storage compound, organizational  
9 maintenance shop or other facility and the lands appurtenant  
10 [~~thereto~~] to them used by the national guard for the storage  
11 and maintenance of arms or military equipment or the  
12 administration or training of the national guard and state  
13 [~~defense force~~] guard personnel.

14 B. "Armory rental" means the casual rental of all or  
15 part of an armory facility to an individual or organization  
16 for a limited and specified purpose, duration and fee, which  
17 use is not in conflict with the ongoing occupancy and use of  
18 the armory by the national guard or state [~~defense force~~]  
19 guard.

20 C. "Local armory" means a particular armory by the  
21 name designation of the municipality or county commonly  
22 associated with it, including the armory building proper and  
23 any appurtenant facilities co-located with it.

24 D. "Armory board council" means the advisory body  
25 comprised of the [~~chairmen~~] chairs of all local armory boards,

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1 serving ex officio, and of the members of the state armory  
2 board, chaired by the adjutant general and convened semi-  
3 annually by the call of the state armory board to aid and  
4 advise that board in the formation of its regulations and  
5 policies. "

6 Section 23. Section 20-9-5 NMSA 1978 (being Laws 1987,  
7 Chapter 318, Section 62) is amended to read:

8 "20-9-5. SECURITY FOR PROPERTY. --The adjutant general  
9 may prescribe regulations for the obtaining of collateral to  
10 guarantee the return of arms, uniforms, equipment or other  
11 military property issued to members of the national guard or  
12 the state [~~defense force~~] guard in an amount at least equal to  
13 the value of the property issued and for such duration as is  
14 deemed appropriate. Such collateral may include cash, surety  
15 bonds, certificates of title or other good and valuable  
16 consideration. Property with investment value shall be  
17 deposited at interest, that interest to be paid to the member  
18 with return of the collateral upon proper return of the  
19 property in serviceable condition, fair wear and tear  
20 excepted. "

21 Section 24. Section 20-10-1 NMSA 1978 (being Laws 1987,  
22 Chapter 318, Section 63) is amended to read:

23 "20-10-1. AWARDS AUTHORIZED. --There are established and  
24 authorized within Chapter 20, Article 10 NMSA 1978 awards for  
25 presentation to units and members of the national guard and

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1 the [~~New Mexico~~] state [~~defense force~~] guard and, where  
2 indicated, for presentation to other persons for recognized  
3 service to the national guard or [~~New Mexico~~] state [~~defense~~  
4 ~~force~~] guard, to the state or to the United States. "

5 Section 25. Section 20-10-2 NMSA 1978 (being Laws 1987,  
6 Chapter 318, Section 64) is amended to read:

7 "20-10-2. AWARDS BOARDS. --

8 A. The adjutant general shall appoint the members of  
9 awards boards for the army national guard and the air national  
10 guard, which shall each meet not less than quarterly to review  
11 recommendations for state and federal awards and decorations  
12 submitted by their respective unit commanders and others. The  
13 army national guard awards board shall also review and act on  
14 recommendations for such awards and decorations relating to  
15 the state [~~defense force~~] guard and shall include one or more  
16 members of the state [~~defense force~~] guard appointed by the  
17 adjutant general whenever considering such matters.

18 B. The adjutant general may by regulation delegate  
19 award authority to battalion commanders, group commanders, or  
20 equivalent, of the national guard, for members of their  
21 command, for the following awards and their subsequent  
22 devices:

23 (1) such United States awards and decorations  
24 as are permitted to be so delegated in United States military  
25 regulations;

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- 1 (2) the outstanding service medal;
- 2 (3) the long service medal;
- 3 (4) the good conduct medal; and
- 4 (5) the perfect attendance ribbon. "

5 Section 26. Section 20-10-5 NMSA 1978 (being Laws 1987,  
6 Chapter 318, Section 67) is amended to read:

7 "20-10-5. MEDAL OF VALOR WITH PALM --The governor may  
8 award a medal of valor with palm and with accompanying ribbon  
9 to any member of the national guard or state [~~defense force~~]  
10 guard who [~~distinguishes himself by~~] performs an extraordinary  
11 act of personal bravery and heroism, at the risk of [~~his~~] the  
12 member's own life, above and beyond the call of duty. "

13 Section 27. Section 20-10-6 NMSA 1978 (being Laws 1987,  
14 Chapter 318, Section 68) is amended to read:

15 "20-10-6. MEDAL OF VALOR. --The governor may award a  
16 medal of valor with accompanying ribbon to any member of the  
17 national guard or state [~~defense force~~] guard who  
18 [~~distinguishes himself by~~] performs an uncommon act of valor,  
19 not necessarily at the risk of [~~his~~] the member's own life,  
20 under circumstances where refraining from so acting would not  
21 have subjected the recipient to criticism. "

22 Section 28. Section 20-10-8 NMSA 1978 (being Laws 1987,  
23 Chapter 318, Section 70) is amended to read:

24 "20-10-8. DISTINGUISHED SERVICE MEDAL. --The governor may  
25 award a distinguished service medal with accompanying ribbon

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1 to any member of the national guard or state [~~defense force~~]  
2 guard who [~~distinguishes himself by~~] performs an unselfish,  
3 untiring and exceptionally meritorious period of service or  
4 act resulting in extraordinary benefit to the state or to the  
5 United States. "

6 Section 29. Section 20-10-10 NMSA 1978 (being Laws 1987,  
7 Chapter 318, Section 72) is amended to read:

8 "20-10-10. OUTSTANDING SERVICE MEDAL. --The adjutant  
9 general may award an outstanding service medal with  
10 accompanying ribbon to any person who, while serving in any  
11 capacity with or as a member of the national guard or state  
12 [~~defense force~~] guard, performs the service required or  
13 requested of [~~him~~] the person through the exertion of extra  
14 effort and in a manner that brings credit to [~~himself~~] the  
15 person, to [~~his~~] the person's unit and to the state, either  
16 over a period of time or on a specific occasion. "

17 Section 30. Section 20-10-11 NMSA 1978 (being Laws 1987,  
18 Chapter 318, Section 73) is amended to read:

19 "20-10-11. OUTSTANDING UNIT CITATION. --The governor may  
20 award an outstanding unit citation of appropriate design with  
21 accompanying individual ribbon to any recognized unit of the  
22 national guard or state [~~defense force which~~] guard that,  
23 through outstanding effort of all its members, has excelled in  
24 the performance of its duty and mission for a period of  
25 service in a manner that clearly exceeds that of other units,

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1 within or without the state, similar in composition or  
2 mission. In extraordinary circumstances, a "V" device may be  
3 awarded to denote valor exemplified by the unit. "

4 Section 31. Section 20-10-12 NMSA 1978 (being Laws 1987,  
5 Chapter 318, Section 74) is amended to read:

6 "20-10-12. SERVICE RIBBON AND LONG-SERVICE MEDAL. --

7 A. The adjutant general shall present a service  
8 ribbon to those members of the national guard and state  
9 [~~defense force~~] guard who have completed five years of  
10 honorable service in the national guard or state [~~defense~~  
11 ~~force~~] guard. This service ribbon shall be of identical  
12 design to the ribbon of the long-service medal.

13 B. The adjutant general shall present a long-service  
14 medal to those members of the national guard and state  
15 [~~defense force~~] guard who have completed ten years of  
16 honorable service in either the national guard or the state  
17 [~~defense force~~] guard. The medal and accompanying ribbon  
18 shall have an appropriate numeral device affixed signifying  
19 total years of service beyond ten in increments of five. "

20 Section 32. Section 20-10-13 NMSA 1978 (being Laws 1987,  
21 Chapter 318, Section 75) is amended to read:

22 "20-10-13. GOOD CONDUCT MEDAL. --The adjutant general may  
23 award a good conduct medal with accompanying ribbon to [~~any~~]  
24 an enlisted member of the national guard or state [~~defense~~  
25 ~~force~~] guard who completes a three-year period of service free

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1 from unauthorized absence, reprimand, court-martial or other  
2 disciplinary action and free from any civilian conviction.  
3 Subsequent three-year periods of service shall be acknowledged  
4 by the presentation and wearing of an affixed device  
5 signifying in arabic numerals the number of such awards to the  
6 member. "

7 Section 33. Section 20-10-14 NMSA 1978 (being Laws 1987,  
8 Chapter 318, Section 76) is amended to read:

9 "20-10-14. PERFECT ATTENDANCE RIBBON. --The adjutant  
10 general may present a perfect attendance ribbon to those  
11 members commissioned, warranted and enlisted of the national  
12 guard or state [~~defense force~~] guard who for the calendar year  
13 have had a perfect drill and annual training attendance. Unit  
14 commanders shall forward a list of all qualifying nominees to  
15 the awards board each January for the preceding calendar year.  
16 Subsequent annual periods of service shall be acknowledged by  
17 the presentation and wearing of an affixed device signifying  
18 in arabic numerals the number of such awards to the member. "

19 Section 34. Section 20-10-15 NMSA 1978 (being Laws 1987,  
20 Chapter 318, Section 77) is amended to read:

21 "20-10-15. ACADEMY SERVICE RIBBON. --The adjutant general  
22 may present an academy service ribbon to those enlisted  
23 members of the national guard or state [~~defense force~~] guard  
24 who have successfully completed a noncommissioned officer  
25 educational system course or noncommissioned officer academy.

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1 An arabic numeral shall reflect successful completion of  
2 higher level courses. "

3 Section 35. Section 20-11-1 NMSA 1978 (being Laws 1987,  
4 Chapter 318, Section 79) is amended to read:

5 "20-11-1. FAILURE TO APPEAR--PENALTY.--

6 A. Any person in the unorganized militia ordered by  
7 the governor into active service in the national guard or  
8 state [~~defense force~~] guard pursuant to the powers enumerated  
9 in Chapter 20 NMSA 1978 and notified of the order to service  
10 who fails to appear without justification within the time  
11 prescribed in the notice to the place [~~which~~] where ordered  
12 shall be guilty of a misdemeanor.

13 B. Any person failing to appear as stated in  
14 Subsection A of this section and whose failure to appear is  
15 willful and with the intent to avoid or evade military service  
16 shall be guilty of a fourth degree felony. "

17 Section 36. Section 20-11-2 NMSA 1978 (being Laws 1987,  
18 Chapter 318, Section 80) is amended to read:

19 "20-11-2. HINDERING NATIONAL GUARD--PENALTY.-- The  
20 commanding officer of any part of the national guard or state  
21 [~~defense force~~] guard called into the active service of the  
22 state, when performing any military duty in any street or  
23 highway, may require any persons to yield the right of way to  
24 the national guard or state [~~defense force~~] guard; provided  
25 that the carriage of United States mail, the legitimate

1 functions of the police and the progress and operations of  
2 ambulances, fire engines and emergency vehicles shall not be  
3 interfered with. All persons who hinder, delay or obstruct  
4 the national guard or state [~~defense force~~] guard in the  
5 active service of the state or who attempt to do so are guilty  
6 of a misdemeanor. "

7 Section 37. Section 20-12-2 NMSA 1978 (being Laws 1987,  
8 Chapter 318, Section 87, as amended) is amended to read:

9 "20-12-2. ADOPTION OF UNIFORM CODE OF MILITARY JUSTICE--  
10 MANUAL FOR COURTS-MARTIAL, UNITED STATES, 1984--UNITED STATES  
11 MILITARY REGULATIONS AND DIRECTIVES--DECISIONS OF UNITED  
12 STATES COURT OF MILITARY APPEALS AND COURTS OF MILITARY  
13 REVIEW--LIMITATIONS AND EXCEPTIONS.--The Uni form Code of  
14 Military Justice, Title 10, Chapter 47, United States Code;  
15 the Manual for Courts-Martial, United States, 1984, (Executive  
16 Order No. 12437 (13 April 1984), as amended); the regulations  
17 and directives of the United States military forces ~~made~~  
18 applicable to the national guard; and the decisions of the  
19 United States court of military appeals and of the armed  
20 services courts of military review are adopted as the Code of  
21 Military Justice, the Manual for Courts-Martial, the  
22 regulations and the precedential case law of this state on  
23 military justice matters, respectively, except as  
24 [~~hereinafter~~] limited or stated within Chapter 20, Article 12  
25 NMSA 1978. These documents shall be reasonably construed and

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1 applied so as to achieve and effect the high level of order  
2 and discipline necessary for the military forces of the state.  
3 Time standards other than periods of limitations and pretrial  
4 confinement may be waived by convening authorities or military  
5 judges where such standards would be impracticable within the  
6 traditional operations of militia forces. Where regulations  
7 and procedures for the United States army differ from those of  
8 the United States air force, the army national guard and the  
9 state [~~defense force~~] guard shall observe the regulations and  
10 procedures of the United States army and the air national  
11 guard shall observe the regulations and procedures of the  
12 United States air force. References therein and in Sections  
13 20-12-13 through 20-12-73 NMSA 1978 to "the United States"  
14 shall mean "the state" where such meaning has reasonable  
15 application. References to "the president" or to "the  
16 secretary" (meaning the secretary of the army or the secretary  
17 of the air force) shall mean "the governor". The adjutant  
18 general may by regulation prescribe practical changes or  
19 variances from the procedural provisions of the Uniform Code  
20 of Military Justice, from the Manual for Courts-Martial or  
21 from service regulations subservient thereto. "

22 Section 38. Section 20-12-3 NMSA 1978 (being Laws 1987,  
23 Chapter 318, Section 88, as amended) is amended to read:

24 "20-12-3. PERSONS SUBJECT TO THE CODE--APPLICABILITY OF  
25 THE CODE. --The Code of Military Justice applies to all members

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1 of the national guard when not in federal service under Title  
2 10, United States Code and to all members of the state  
3 [~~defense force~~] guard when performing militia duty. The code  
4 has territorial applicability both within and without the  
5 state. The code has applicability at all times, provided that  
6 either the member is in a duty status or, if not in a duty  
7 status, that there is a connection between the act or omission  
8 constituting the offense and the efficient functioning of the  
9 military forces; however, this grant of military jurisdiction  
10 shall not preclude or limit civilian jurisdiction over an  
11 offense, which is limited only by the prohibition of double  
12 jeopardy. "

13 Section 39. Section 20-12-4 NMSA 1978 (being Laws 1987,  
14 Chapter 318, Section 89) is amended to read:

15 "20-12-4. CONVENING AUTHORITIES--NONJUDICIAL PUNISHMENT  
16 AUTHORITIES. --

17 A. A general, special or summary court-martial may  
18 be convened by the governor or by the adjutant general.

19 B. A special or summary court-martial may be  
20 convened by the assistant adjutant general of the army  
21 national guard, as to all members of the army national guard;  
22 by the commanding general of the 111th air defense artillery  
23 brigade, as to members of [~~his~~] the commanding general's  
24 command; by the commanding officer of troop command, as to all  
25 members of [~~his~~] the commanding officer's command; by the

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1 assistant adjutant general of the air national guard, as to  
2 all members of the air national guard; by the assistant  
3 adjutant general of the state [~~defense force~~] guard, as to all  
4 members of the state [~~defense force~~] guard; and to the  
5 commanders of such equivalent level commands as may be  
6 organized in the future.

7 C. A summary court-martial may be convened by a  
8 battalion commander, group commander or equivalent, as to all  
9 members of [~~his~~] the commander's command.

10 D. Nonjudicial punishment authority is conferred  
11 upon all general, special or summary court-martial convening  
12 authorities and upon company, battery and squadron commanders  
13 or equivalent as to members of their command. "

14 Section 40. Section 20-12-5 NMSA 1978 (being Laws 1987,  
15 Chapter 318, Section 90) is amended to read:

16 "20-12-5. JUDGE ADVOCATES. --

17 A. The adjutant general may appoint commissioned  
18 officers of the national guard and of the state [~~defense~~  
19 ~~force~~] guard who are members of the bar of the supreme court  
20 of New Mexico as judge advocates. One judge advocate shall be  
21 designated by the adjutant general as the state judge  
22 advocate. The remaining senior judge advocate of each of the  
23 army national guard, the 111th air defense artillery brigade,  
24 the air national guard and the state [~~defense force~~] guard  
25 shall be designated as the staff judge advocate for their

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1        respective component, but this designation shall not preclude  
2        their assignment as military judge, trial counsel or defense  
3        counsel to other components in individual cases where they  
4        have not earlier participated. All other judge advocates  
5        shall be designated as assistant staff judge advocates.  
6        Designation as a judge advocate may be as a primary military  
7        specialty or as an additional duty, with their concurrence,  
8        for line officers who are members of the bar of the supreme  
9        court of New Mexico.

10                B. Judge advocates shall make frequent inspections  
11        in the field in supervision of the administration of military  
12        justice. Judge advocates of one component may participate in  
13        the administration of military justice in other components.  
14        Appointment as a judge advocate by the adjutant general shall  
15        substitute for Article 27(b)(2), Uniform Code of Military  
16        Justice certification.

17                C. The adjutant general, with the concurrence of the  
18        state judge advocate, shall appoint one military judge from  
19        the army national guard and one military judge from the air  
20        national guard. To the extent practicable, military judges  
21        will hear cases from components other than their own.  
22        Appointment as military judge shall not preclude assignment of  
23        judge advocate duties which are not in conflict with those of  
24        a military judge. A judge advocate's performance of duty as a  
25        military judge shall not be the subject of comment in any

1 effectiveness, fitness or efficiency report beyond a statement  
2 that the officer is designated as military judge.

3 D. Federally recognized judge advocates of other  
4 active and reserve military components may, with their  
5 concurrence, serve as judge advocates for the national guard  
6 and the state [~~defense force~~] guard when so requested and  
7 detailed by the state judge advocate. "

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